UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

August 5, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, D.C. 20426

Subject: Draft Environmental Impact Statement for the Toledo Bend Hydroelectric Project Project (No. 2305-036), Texas and Louisiana

Dear Ms. Bose,

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) prepared by the Federal Energy Regulatory Commission (FERC).

EPA rates the DEIS as **EC-2** i.e., EPA has "Environmental Concerns and Requests Additional Information" in the Final EIS". The "EC" rating is based on the potential impacts to Environmental Justice (EJ) communities and aquatic resources. The "2" indicates the DEIS does not contain sufficient information to fully assess impacts to EJ communities, aquatic resources, and air quality. The EPA's Rating System Criteria can be found here: http://www.epa.gov/oecaerth/nepa/comments/ratings.html.

EPA appreciates the opportunity to review the DEIS. Our classification will be published on the EPA website, http://www.epa.gov/compliance/nepa/eisdata.html, according to our responsibility under Section 309 of the CAA to inform the public of our views on the proposed Federal action. Please send our office one copy of the FEIS. If you have any questions or concerns, please contact me at 214-665-8006 or John MacFarlane of my staff at macfarlane.john@epa.gov or 214-665-7491 for assistance.

Sincerely,

Rhonda Smith
Chief, Office of Planning and Coordination

DETAILED COMMENTS ON THE
FEDERAL ENERGY REGULATORY COMMISSION'S
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE
TOLEDO BEND HYDROELECTRIC PROJECT
TEXAS AND LOUISIANA

Background

The existing project is located on the Sabine River in Panola, Shelby, Sabine, and Newton counties, Texas; and De Soto, Sabine, and Vernon Parishes, Louisiana; approximately 156.5 miles upstream from the Gulf of Mexico. The project extends upstream to Bayou Murvaul, at river mile 279, above Logansport, Louisiana. The project proposes to construct a 1.3-megawatt (MW) horizontal Francis minimum flow turbine-generator located downstream of the spillway that would increase the project's total generating capacity to 82.3 MW. The proposed installation would replace one spillway tainter gate with a new conventional intake and a steel penstock pipe measuring about 460-feet-long to a new powerhouse.

General

The Final EIS (FEIS) should include additional discussion of the impacts from the proposed 10,400 foot (1.9 mile) transmission line. The discussion should include a description and map of the line's location and potential impacts to vegetation, waters of the U.S., including wetlands, and any other resource category that may be affected.

Aquatic Resources

The Clean Water Act, Section 404, which is jointly administered by the U.S. Army Corps of Engineers (Corps) and the EPA, prohibits fill in waters of the United States (U.S.). A permit would be required from the Corps if a discharge of dredged or fill material into such waters is proposed.

Recommendation:

- The FEIS should include a more detailed evaluation of impacts to waters of the U.S., a discussion on compliance with 404, and 404 coordination with the Corps, as appropriate.

Air Quality

The DEIS provides no discussion of potential air quality impacts associated with this project. Please add language to clarify whether or not this project will require air quality permits through the applicable permitting authorities (e.g., Louisiana Department of Environmental Quality, Texas Commission on Environmental Quality, and EPA Region 6) for long-term operations.

Recommendations:

- If the project does not require air quality permits, and FERC contends that due to project details an air quality impacts discussion is not applicable, please explain.

- Include a discussion of the project study area's proximity to population areas (urban and/or rural), including identifying locations of any sensitive human subgroups (children, elderly, infirmed).

Section 3.3.7 Aesthetics (page 152)

This section discusses anticipated effects of project construction, such as increased dust in the project area. In addition to increased dust, construction vehicle engine emissions may contribute to air quality impacts during the 2-year active construction period described. EPA is supportive of measures taken to limit the footprint of construction activities, and the use of best management practices to limit air quality impacts from construction activities.

Recommendations:

EPA recommends that in order to reduce potential short-term air quality impacts associated with construction activities of the various alternatives; the agencies responsible for the project should include a Construction Emissions Mitigation Plan and adopt this plan in the Record of Decision (ROD). In addition to all applicable local, state, or federal requirements, the EPA recommends that the following mitigation measures be included in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of nitrogen oxides (NOx), carbon monoxide (CO), particulate matter (PM), sulfur dioxide (SO_2), and other pollutants from construction-related activities:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate at active and inactive sites during workdays, weekends, holidays, and windy conditions;
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions; and
- Prevent spillage when hauling material and operating non-earthmoving equipment and limit speeds to 15 miles per hour. Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Plan construction scheduling to minimize vehicle trips;
- Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections;
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed;
- Consider use of construction equipment meeting EPA's Tier 4 engine standards. However, lacking availability of such non-road construction equipment that meets these standards, we would suggest use of EPA-verified particulate traps, oxidation catalysts

and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site; and
- Consider alternative fuels and energy sources such as natural gas and electricity (plug-in or battery).

Administrative controls:
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking;
- Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips; and
- Identify sensitive receptors in the project area, such as children, elderly, and infirmed, and specify the means by which impacts to these populations will be minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and building air intakes).

Socioeconomics and Environmental Justice

Section 3.3 states "[o]nly the resources that would be affected, or about which comments have been received, are addressed in detail in this EIS." However, there is no explanation of those resources and specifically why they would not be affected. We are concerned that there is no discussion of social characteristics of the area or whether there are communities upstream or downstream of this project and, if so, whether there are any environmental justice concerns. This DEIS neither assesses the socioeconomics and environmental justice aspects of the proposed project, nor its potential impacts. Environmental justice issues can be sensitive to the history or circumstances of a particular community, to the particular type of environmental or human health impact, and to the nature of the proposed action itself.

Recommendation:

- EPA recommends that FERC follow the Council on Environmental Quality (CEQ) Guidance on Environmental Justice (http://ceq.hss.doe.gov/nepa/regs/ej/justice.pdf) and provide an analysis of socioeconomics and environmental justice for the proposed project

Tribal Resources

The U.S. has a unique legal relationship with federally-recognized tribes based on the Constitution, treaties, statutes, Executive Orders, and court decisions. This relationship includes recognition of the right of tribes as sovereign governments to self-determination, and an acknowledgment of the federal government's trust responsibility to tribes. The precise nature of this relationship will vary depending upon the identity of the tribes, nature of trust resources, and federal agencies involved.

Under the cultural resources section, the DEIS indicates that two federally recognized tribes as having ancestral ties to the area of the proposed project, including the Alabama-Coushatta Tribe of Texas and the Caddo Nation of Oklahoma (pg. 145). While it states that the Authorities (Sabine River Authority of Texas and Sabine River Authority of Louisiana) met with the Cultural Resources Working Group, which included the two tribes, during study plan

development to review existing information and identify specific areas for fieldwork, there is no indication of whether the Tribes' senior officials or cultural resources personnel were engaged.

The DEIS goes on to state that two reports summarizing study findings of reconnaissance were filed with FERC, and that the Texas Historical Commission concurred with the results and recommendations provided in the final Texas Management Summary, and that the Louisiana SHPO concurred with recommendations provided. However, the DEIS does not indicate any communication with the Tribes or attempts thereof, to determine the Tribes' position of the findings and recommendations.

Page 148 states "no potential Traditional Cultural Properties (TCP) of importance to the Tribes have been identified within the project area of potential effect, but that the authorities are continuing consultation with the tribes to identify and document National Register-eligible TCPs and assess the project's effects on these resources". However, the DEIS does not contain any documentation of outreach or correspondence to Tribes, the level of Tribal leadership engaged, or whether the Tribes offered input on the proposed project.

The DEIS does not indicate that FERC engaged in government-to-government consultation with Tribes (EO 13175) nor does the DEIS refer to any agency consultation policy or guidance that would guide the consultation process with Tribes.

Recommendations:

- Contact and, as appropriate, initiate government-to-government consultation (E.O. 13175) with Tribes concerning the potential effects of its actions;
- Include correspondence to Tribal governments and other consultation related documents to demonstrate fulfillment of Tribal consultation duties of federal agencies, and exhibit the level of Tribal government engaged in the process; and
- Reference consultation policies and guidance used by FERC.